

EXHIBIT B

From: D Lopez
To: Terry Coates
Cc: mbrown@sunchannel.net; claims_info@newhampshirerights.com; Anderson Berry; Gregory Haroutunian; Dylan Gould; lyn@colevannote.com; Kiley Grombacher; Justin Walker
Subject: Re: In re Blackhawk Network Data Breach Litigation, No. 3:22-cv-07084 (N.D. Cal.) - appeal
Date: Thursday, July 25, 2024 10:40:01 AM

Hi Terry.

Under the sweeping definition of the class that appears to cover all data breaches, which contradicts the claim forms, along with the mere vague assertions that the admission by Blackhawk of a breach being involved, necessitates my appeal. Your firm breached its duty to the class by allowing broad language to be within the settlement that could be used by Blackhawk in the future as to persons similarly situated to me. You've never even told the court the nature of the breach, how some accounts were affected, and how some were not, how it was determined which accounts were affected, how notification was provided to claimants that Blackhawk breached in cases where they did not have contact information, among other things.

Moreover, even if it is determined that you are correct on standing issues, and I believe you are wrong, the appeals court still has a fiduciary duty to review the appropriateness of the settlement and the issues I raised. I read a recent case *In re Transpacific* and the court found the objectors lacked standing but that their fiduciary duties required the court to address the merits. Therefore, it would be inappropriate for me to dismiss my appeal. I would be willing to work with you on language that discloses exactly who was affected and limiting orders that the settlement only waives their claims and not for any other type of breach. The language of the settlement as-is, however, is all-encompassing and the district court breached its duties by sloughing off the objections.

DLopez

On 2024-07-24 12:08, Terry Coates wrote:

> sophossmartbannerend
>
> Ms. Brown and Mr. Lopez:
>
> We have been appointed by the District Court to represent the
> Settlement Class in the matter of *In Re Blackhawk Network Data Breach*
> Litigation, consolidated into case number 3:22-cv-07084-CRB (N.D.
> Cal.). Since you are not a member of the Settlement Class, we do not
> represent you.
>
> We are in receipt of your objections to the settlement before the
> District Court as well as your Notice of Appeal. Given our interest
> in ensuring prompt redress for the Settlement Class and as a courtesy
> to you, we write in the hopes that you will dismiss your appeal. We
> are attaching the response to your objection filed by Blackhawk which
> clearly asserts that your cards were not affected by the data breach.
> This document is important because it establishes that you are not a
> member of the Settlement Class and so your rights are not affected in
> any way by this settlement. Said another way, this means that you are
> free to sue Blackhawk for any claims you believe you may have. This
> also means that you do not have standing to object to this settlement
> or to appeal the Court's Order granting Final Approval of the
> Settlement because the settlement does not affect you in any way.
>
> Standing is a complicated legal requirement, but at base, it requires
> that you (or any litigant) have a right to make a legal claim or to
> seek judicial enforcement of a duty or right. The right must be
> actualized (or the harm imminent), it cannot be purely academic or
> speculative. You cannot sue on behalf of someone else for rights that
> affect them, but do not affect you. Because your card was not
> affected, you are not covered by this settlement and your rights are
> not affected. This means there is nothing for the Court to decide as
> to you and your claims - simply, you do not meet the requirements for
> the Court to hear your objection.
>
> There is a lot of case law which directly addresses this issue- ruling
> that only class members can object to settlement proposals. For
> example, see *Moore v. Verizon Commc'ns, Inc.*, No. C 09- 1823 SBA,
> 2013 U.S. Dist. LEXIS 122901, at *33 (N.D. Cal. Aug. 28, 2013) ("It is
> well-settled that only class members may object to a class action
> settlement.") I am also attaching an opinion from the Seventh Circuit
> which makes clear that individuals who are not members of a class
> cannot bring an objection to a settlement before the Court. We
> understand the time for payment of your appellate fees is coming due

> soon and we would encourage you to review this authority before you
> spend your money and potentially incur additional liability for the
> costs of other parties to the appeal.

>
> We have not made any assessment as to the merit or value of any
> potential claims you may have or allege against Blackhawk outside the
> scope of this settlement. If you intend to proceed with litigation
> against Blackhawk, we encourage you to be mindful of any statutes of
> limitations and to seek legal counsel as soon as possible regarding
> any such potential claims. We wish you the best of luck with such
> potential claims. We would, however, request that you dismiss this
> appeal as soon as possible.

>
> I am available to discuss if that would be helpful to you. My phone
> number is (513) 665-0204.

>
> Thank you,

>
> Terry

>
> Terence R. Coates, Esq.

>
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